

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

## In re Application of:

Hu Yang, Ta Yen Ching,  
Kevin Cai and Lennard Torres

Group Art Unit: 1712

Serial No.: 09/998,773

Examiner: Unknown

Filed: November 30, 2001

Attorney Docket: 2039.010300

For: OXYGEN BARRIER COPOLYMER

**REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(A)****RECEIVED**

Assistant Commissioner for Patents  
Attn: Office of Petitions  
Washington, D.C. 20231

OCT 04 2002

OFFICE OF PETITIONS

Sir:

Applicant requests reconsideration of the Decision on Petition dated August 26, 2002, in which the PTO dismissed applicant's petition under 37 C.F.R. § 1.47(a). Please charge any required fee to Deposit Account No. 50-0786/2039.010300SAW.

1. This patent application was filed in the USPTO on November 30, 2001, without a declaration by the inventors. The inventors named on the application are Hu Yang, Ta Yen Ching, Kevin Cai, and Lennard Torres. All four inventors were employees of Chevron Phillips Chemical Company LP at the time this invention was made.

2. On January 25, 2002, the PTO mailed a Notice To File Missing Parts Of Non-Provisional Application. This notice set an extendable deadline of March 25, 2002, for filing a declaration executed by the inventors. The undersigned agent for applicant then submitted a declaration to all four inventors to sign. The declaration was returned to the undersigned agent,

at which time it was discovered that the declaration had been executed by inventors Yang and Ching, but inventor Torres had executed the declaration incompletely and inventor Cai had not executed the declaration. The undersigned agent for applicant was notified by Chevron Phillips Chemical Company LP ("CPChem") that inventor Cai had left its employ. The undersigned agent then sent the declaration to inventor Torres to be re-executed. At that time, the undersigned agent was informed by CPChem that inventor Torres had just left its employ. The undersigned agent then attempted several times to contact inventors Cai and Torres at their last known address to have them execute the declaration.

3. The declaration executed by inventors Yang and Ching was filed in the PTO on May 9, 2002, along with a petition for a two month extension of time, and petitions under 37 C.F.R. § 1.47(a) regarding inventors Cai and Torres. A copy of the declaration executed by inventors Yang and Ching is attached as Exhibit A.

4. Applicant's petition under § 1.47(a) was dismissed on August 26, 2002, with leave to refile within two months. After the original petition under § 1.47(a) was dismissed, the undersigned agent made further attempts to locate inventors Cai and Torres, as explained in detail below. These efforts were successful in locating Torres, but there was no response by inventor Cai.

5. Inventor Cai's current employer is unknown, and he left no forwarding address with CPChem. His last known home address is 335 Glasgow Circle, Danville, CA 94526. The undersigned agent sent a letter to Dr. Cai at this address on February 28, 2002, but received no reply. The undersigned agent also attempted to contact Dr. Cai by phone at his last known phone number, 925-362-8884, but the number had been disconnected without directing the caller to a new phone number. The undersigned agent also tried contacting Dr. Cai at a phone number

found in Internet white pages (510-744-0510) for an individual having the same name, but upon contacting this person it was found that he had never worked at CPChem. The undersigned agent also searched white pages using Dr. Cai's alternate first name of Gangfeng, without success.

6. Attached as Exhibits B and C are the results of Internet searches performed on August 30, 2002, to try to find inventor Cai in Yahoo People Search and in AnyWho, respectively. The Yahoo search revealed the phone number (925) 362-8884 in Danville, CA. When the undersigned agent called that number on September 4, 2002, the number had been disconnected without directing the caller to a new phone number. The AnyWho search revealed a Kevin Cai at an address in Fremont, CA, with a phone number of (510) 744-0510. This is the same phone number the undersigned agent had already called. The Kevin Cai living at that address informed the undersigned agent that he is not the same Kevin Cai who previously was employed by CPChem.

7. On September 6, 2002, the undersigned agent sent another letter to inventor Cai at his last known address, by Federal Express. A copy of that letter and the Federal Express label/receipt is attached as Exhibit D. As indicated in the attached exhibit, the letter included a copy of this patent application and the declaration. The letter was delivered to the last known address on September 9, 2002, and on September 12, 2002 the person now living at that address had FedEx retrieve the package containing the documents, and forward the package to 2502 Earlybird Lane Arlington, TX, where it was apparently signed for by C. Gangfeng. [See the attached Exhibit E.] To date, the undersigned agent has not received any documents back from inventor Cai.

8. Attached as Exhibits F and G are the results of Internet searches performed on September 24, 2002 and September 27, 2002 to try to find inventor Kevin Cai in Arlington, TX using Yahoo People Search and AnyWho respectively. The undersigned agent also searched using Dr. Cai's alternate first name of Gangfeng, without success.

9. After the original petition under § 1.47(a) was dismissed, Kenneth D. Goodman, an attorney of record in this application, contacted CPChem to see if it had a more recent forwarding address for inventors Cai or Torres. He was informed by CPChem that it had no more recent address for either inventor.

10. A number of attempts to contact inventor Torres earlier in 2002 were unsuccessful. On September 6, 2002, the undersigned agent sent another letter to inventor Torres at his last known address, by Federal Express. A copy of that letter and the Federal Express label/receipt is attached as Exhibit H. As indicated in the attached exhibit, the letter included a copy of this patent application and the declaration. The executed declaration was recently returned by inventor Torres to the undersigned agent. [See the attached Exhibit I.]

11. Therefore, under 37 C.F.R. § 1.47(a), the other inventors wish to make application for patent on behalf of themselves and Cai. Applicant submits that the facts stated herein and the attached exhibits establish that any perceived deficiencies of the original petition have been remedied, and that applicant has made a diligent effort to locate inventors Cai and Torres, and to get them to sign the declaration.

12. Applicant has already paid the petition fee of \$130 under 37 C.F.R. 1.17(i). If any additional fee is due in connection with this paper, the Assistant Commissioner is authorized to charge it to Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.010300SAW.

13. Applicant believes that no extension of time is required for this Request for Reconsideration. If any extension of time is required, please treat this paper as a request for the necessary extension under 37 C.F.R. §1.136(a), and charge any required fee to Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.010300SAW.

Respectfully submitted,

*Stephanie A. Wardwell*

Stephanie A. Wardwell  
Reg. No. 48,025  
AGENT FOR APPLICANTS

WILLIAMS, MORGAN & AMERSON, P.C.  
7676 Hillmont, Suite 250  
Houston, Texas 77040  
(713) 934-4077  
(713) 934-7011 (fax)

Dated: Oct. 3, 2002

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## DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or the below named inventors are the original, first and joint inventors (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **Oxygen Barrier Copolymer**, the Specification of which:

- ☐ is attached hereto.  
☒ was filed on **November 30, 2001** as Application Serial No. **09/998,773**.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim priority benefits under Title 35, United States Code, § 119 and/or § 365 of any foreign application(s) for patent or inventor's certificate, PCT international application(s), and United States provisional application(s), listed below and have also identified below any foreign application for patent or inventor's certificate, PCT international application, or United States provisional application, having a filing date before that of the application on which priority is claimed:

PRIORITY APPLICATION(S)			Priority Claimed
N/A			
(Number)	(Country)	(Date Filed)	Yes/No
(Number)	(Country)	(Date Filed)	Yes/No

I hereby claim the benefit under Title 35, United States Code, § 120 and/or § 365 of any United States application(s) and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which becomes available between the filing date of the prior application and the national or PCT international filing date of this application:

N/A		
(Application Serial No.)	(Filing Date)	(Status)
(Application Serial No.)	(Filing Date)	(Status)

I hereby direct that all correspondence and telephone calls be addressed to Stephanie A. Wardwell, Williams, Morgan & Amerson, P.C., 7676 Hillmont, Suite 250, Houston, Texas 77040, (713) 934-7000.

I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name:	Hu		Yang
Inventor's Signature:	<i>Hu e/f</i>		
Country of Citizenship:	Canada	Date:	2-26-02
Residence Address: (street, number, city, state, and/or country)	360 Bellflower Ct. San Ramon, CA 94583		
Post Office Address: (if different from above)	Same as above		

Inventor's Full Name:	Ta	Yen	Ching
Inventor's Signature:	<i>Ta Yen Ching</i>		
Country of Citizenship:	USA	Date:	2-26-02
Residence Address: (street, number, city, state, and/or country)	10 Santa Yorma Court Novato, CA 94945		
Post Office Address: (if different from above)	Same as above		

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Inventor's Full Name:	Kevin		Cai
Inventor's Signature:			
Country of Citizenship:		Date:	
Residence Address: (street, number, city, state, and/or country)			
Post Office Address: (if different from above)			

Inventor's Full Name:	Lennard		Torres
Inventor's Signature:			
Country of Citizenship:		Date:	
Residence Address: (street, number, city, state, and/or country)			
Post Office Address: (if different from above)			



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[Kevin Cai](#)

Danville, CA

(925) 362-8884

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cai

First Name (e.g., Geor

Kevin

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City

State *Required*

California

Zip Code

and

Your search is based on: Kevin cai in CA  
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PRE

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**Cai, Kevin**

1514 Gilbert Place  
FREMONT, CA 94536

510-744-0510

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**Cain, Kevin**

SAN DIEGO, CA 92107

619-223-4939

[Maps & Directions](#) | [Did you go to school with Kevin Cain?](#)

**Cain, Kevin**

2614 Etna  
BERKELEY, CA 94704

510-843-4261

[Maps & Directions](#) | [Did you go to school with Kevin Cain?](#)

**Cain, Kevin P**

19 Salt Landing  
TIBURON, CA 94920

415-388-5614

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**Caine, Kevin**

LOS ANGELES, CA 90028

323-463-0661

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**Caine, Kevin**

FRESNO, CA 93650

559-222-3998

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**Cairns, Kevin M**

TRACY, CA 95376

209-836-4003

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**WILLIAMS, MORGAN & AMERSON, P.C.**

7676 HILLMONT, SUITE 250, HOUSTON, TX 77040  
(713) 934-7000 FAX (713) 934-7011

Danny L. Williams  
Terry D. Morgan  
J. Mike Amerson  
Kenneth D. Goodman  
Jeffrey A. Pyle  
Jaison C. John  
Ruben S. Bains  
Steven K. Wong

Scott F. Diring\*  
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Mark D. Moore, Ph.D.\*  
Louis H. Iselin, Ph.D.\*  
Raymund F. Eich, Ph.D.\*  
Daren C. Davis\*  
Stephanie A. Wardwell, Ph.D.\*  
Mark W. Sincell, Ph.D.\*

\*Patent Agent

WRITER'S DIRECT DIAL:  
713.934.4077

September 6, 2002

FILE: 2039.010300

Federal Express No. 8255 5960 5640

Gangfeng Cai, Ph.D.  
335 Glasgow Circle  
Danville, CA 94526

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RE: *U.S. Patent Application Serial No. 09/998,773*  
*Entitled: "Oxygen Barrier Copolymer"*  
*Inventor(s): Yang, Ching, Cai and Torres*  
*Your Reference: PI-210074*

Dear Dr. Cai:

Enclosed are an Inventor's Declaration and an Assignment regarding the above-referenced patent application. Please sign and date these documents and return to us for filing with the United States Patent and Trademark Office. Please include your country of citizenship and home address on the Declaration at the time of signing. You may return these documents to us in the enclosed self-addressed envelope. We have also enclosed a copy of the patent application that was filed with the Patent and Trademark Office on November 30, 2001.

If you have any questions, please feel free to contact me and I will be pleased to discuss these documents with you.

Regards,

*Stephanie A. Wardwell*  
Stephanie A. Wardwell  
Patent Agent

Encls.

cc: Ms. Kimberly K. Gregg  
Kenneth D. Goodman, Esq.



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**Reference Number**  
**Ship Date** 09/12/2002  
**Delivered To** Recipient  
**Delivery Location** ARLINGTON TX  
**Delivery Date/Time** 09/13/2002 08:29  
**Signed For By** C. GANGFENG  
**Service Type** Priority Letter

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On FedEx vehicle for deliveryGRAND PRAIRIE TX	09/13/2002 07:50	
Arrived at FedEx Destination LocationGRAND PRAIRIE TX	09/13/2002 06:32	
Left FedEx Sort FacilityMEMPHIS TN	09/13/2002 01:37	
Left FedEx Sort FacilityOAKLAND CA	09/12/2002 21:54	
Arrived at Sort FacilityOAKLAND CA	09/12/2002 19:41	
Left FedEx Sort FacilityOAKLAND CA	09/12/2002 19:38	
Left FedEx Origin LocationPLEASANTON CA	09/12/2002 18:04	
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**Delivery Location** DANVILLE CA  
**Delivery Date/Time** 09/09/2002 09:17  
**Signed For By** S.TEPHANI WADEWELL  
**Service Type** Priority Letter

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On FedEx vehicle for delivery PLEASANTON CA	09/09/2002 08:21	
Package status PLEASANTON CA	09/07/2002 09:55	Package not due for delivery
On FedEx vehicle for delivery PLEASANTON CA	09/07/2002 09:53	
Arrived at FedEx Destination Location PLEASANTON CA	09/07/2002 08:30	
Left FedEx Sort Facility OAKLAND CA	09/07/2002 06:46	
Arrived at Sort Facility OAKLAND CA	09/07/2002 04:18	
Left FedEx Sort Facility MEMPHIS TN	09/07/2002 03:39	
Left FedEx Sort Facility MEMPHIS TN	09/07/2002 00:39	
Arrived at Sort Facility MEMPHIS TN	09/06/2002 23:59	
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September 25, 2002

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Released By: S.TEPHANI WADEWELL

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Delivery Date: September 09, 2002

Delivery Time: 09:17 AM

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## Shipping Information:

Tracking No: 825559605640

Ship Date: September 06, 2002

Shipper: STEPHANIE A WARD  
WILLIAMS MORGAN &  
AMERSON  
7676 HILLMONT ST STE 250  
HOUSTON, TX 770406423  
US

Recipient: GANGFEN CAI PH D  
335 GLASGOW CIRCLE  
DANVILLE, CA 94526  
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## Delivery Information:

Released By: C. GANGFENG  
Delivered to: 2502 EARLY BIRD  
Delivery Date: September 13, 2002  
Delivery Time: 08:29 AM

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## Shipping Information:

Tracking No: 825559605640

Ship Date: September 12, 2002

Shipper: STEPHANIE A WARD  
WILLIAMS MORGAN &  
AMERSON  
7676 HILLMONT ST STE 250  
HOUSTON, TX 770408423  
US

Recipient: GANGFENG CAI PH D  
335 GLASGOW CIRCLE  
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It is also possible that the person you are looking for does not have a phone listing in Yahoo! People Search.

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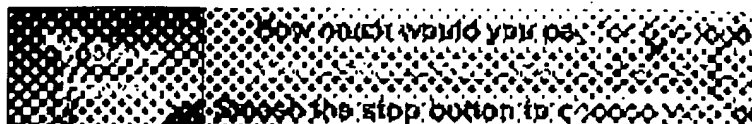
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AnyWho


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Tip for better results! - When searching for a person enter the first four letters of the last name, first initial and I

## Promotions

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## Find a Person

Last Name (e.g., Bush) *Required*

Cai

First Name (e.g., George)

Kevin

Street Name (e.g., Pennsylvania)

City

Arlington and

State *Required*

Texas

Zip Code



**Your search is based on:** Kevin Cai in Arlington TX

No Luck? Try Public Records!

◀ PRE

Can't find Kevin Cai? Try Classmates.com!

**Unable to return results...**

**Reason:** No listings were found.

- We searched on **Kevin Cai** in **Arlington TX** however, we could not find any listings to display.

**Recommended possible solutions:** Please alter your search information using one of the following (in priority order).

1. Check to see if your information was entered correctly. Make sure you're using the correct spelling or location (street, city, state or zip).
2. Too much information was entered. A common mistake is being too specific. Start with broader range of search information then narrow down if needed.
  - a. Some listings in the database do not contain zip codes thus, resulting in listings not being found.
  - b. For cities with multiple zip codes, use the city instead of the zip code when possible or just search within the state.
  - c. **For a Person:** Use a partial (wildcard) last name instead of the full last name. Try removing the first name or only use the first

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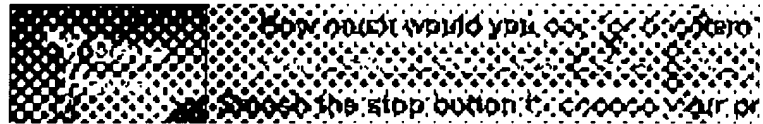
initial. Also, the listing may be under a spouses' name, if applicable.

- d. **For a Business:** You may need to alter the business name slightly. Only use the \*key\* identifying words in the business name.
3. Finally, the listing you're looking for is a non-published listing. Non-published listings are not contained within the database.

Please try your search again based on one of the recommended possible solutions using the form above.

U002

◀ PRE



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## Find a Person

Last Name (e.g., Bush) *Required*

Cai

First Name (e.g., George)

Gangfeng

Street Name (e.g., Pennsylvania)

City

Arlington

and

State *Required*

Texas

Zip Code



Your search is based on: Gangfeng Cai in Arlington

No Luck? Try Public Records!

◀ PRE

Can't find Gangfeng Cai? Try Classmates.com!

Unable to return results...

Reason: No listings were found.

- We searched on **Gangfeng Cai** in **Arlington TX** however, we could not find any listings to display.

**Recommended possible solutions:** Please alter your search information using one of the following (in priority order).

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- d. **For a Business:** You may need to alter the business name slightly. Only use the \*key\* identifying words in the business name.
3. Finally, the listing you're looking for is a non-published listing. Non-published listings are not contained within the database.

Please try your search again based on one of the recommended possible solutions using the form above.

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Raymund F. Eich, Ph.D.\*  
Daren C. Davis\*  
Stephanie A. Wardwell, Ph.D.\*

\*Patent Agent

WRITER'S DIRECT DIAL:  
713.934.4077

September 6, 2002

FILE: 2039.010300

Via Federal Express No. 8255 5960 5650

Lennard Torres, Ph.D.  
682 Concord Pl.  
Pleasanton, CA 94566

RE: *U.S. Patent Application Serial No. 09/998,773*  
*Entitled: "Oxygen Barrier Copolymer"*  
*Inventor(s): Yang, Ching, Cai and Torres*  
*Your Reference: PI-210074*

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Dear Dr. Torres:

Enclosed is an Inventor's Declaration regarding the above-referenced patent application. Please sign and date the Declaration, include your country of citizenship and home address on the Declaration at the time of signing, and return to us for filing with the United States Patent and Trademark Office. You may return the Declaration to us in the enclosed self-addressed envelope or Federal Express envelope. We have also enclosed a copy of the patent application that was filed with the Patent and Trademark Office on November 30, 2001.

If you have any questions, please feel free to contact me.

Regards,

*Stephanie A. Wardwell*  
Stephanie A. Wardwell  
Patent Agent

Encls.

cc: Ms. Kimberly K. Gregg  
Kenneth D. Goodman, Esq.

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Phone (713) 934-7000

Company **WILLIAMS MORGAN & AMERSON**

Address 7676 HILLMONT ST STE 250

CITY OF HOUSTON

TX 71P 77040

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## 2 Your Internal Billing Reference

### 3 To

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**Recipient's Name**

Phone {

**Compt** Stephanie A. Wardwell, Ph.D.

Williams, Morgan & Amerson

7676 Hillmont, Suite 250

Houston, TX 77040

City

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**DECLARATION**

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As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or the below named inventors are the original, first and joint inventors (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **Oxygen Barrier Copolymer**, the Specification of which:

- ☐ is attached hereto.  
☒ was filed on **November 30, 2001** as Application Serial No. **09/998,773**.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim priority benefits under Title 35, United States Code, § 119 and/or § 365 of any foreign application(s) for patent or inventor's certificate, PCT international application(s), and United States provisional application(s), listed below and have also identified below any foreign application for patent or inventor's certificate, PCT international application, or United States provisional application, having a filing date before that of the application on which priority is claimed:

PRIORITY APPLICATION(S)			Priority Claimed
N/A			
(Number)	(Country)	(Date Filed)	Yes/No
(Number)	(Country)	(Date Filed)	Yes/No

I hereby claim the benefit under Title 35, United States Code, § 120 and/or § 365 of any United States application(s) and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which becomes available between the filing date of the prior application and the national or PCT international filing date of this application:

N/A		
(Application Serial No.)	(Filing Date)	(Status)
(Application Serial No.)	(Filing Date)	(Status)

I hereby direct that all correspondence and telephone calls be addressed to Stephanie A. Wardwell, Williams, Morgan & Amerson, P.C., 7676 Hillmont, Suite 250, Houston, Texas 77040, (713) 934-7000.

I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name:	Hu		Yang
Inventor's Signature:			
Country of Citizenship:	Canada	Date:	
Residence Address: (street, number, city, state, and/or country)	360 Bellflower Ct. San Ramon, CA 94583		
Post Office Address: (if different from above)	Same as above		

Inventor's Full Name:	Ta	Yen	Ching
Inventor's Signature:			
Country of Citizenship:	USA	Date:	
Residence Address: (street, number, city, state, and/or country)	10 Santa Yorma Court Novato, CA 94945		
Post Office Address: (if different from above)	Same as above		

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Inventor's Full Name:	Kevin		Cai
Inventor's Signature:			
Country of Citizenship:		Date:	
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Post Office Address: (if different from above)			

Inventor's Full Name:	Lennard	Torres
Inventor's Signature:	<i>Lennard Torres</i>	
Country of Citizenship:	USA	Date: 9/12/02
Residence Address: (street, number, city, state, and/or country)	682 Concord Place Pleasanton, CA 94566	
Post Office Address: (if different from above)		